



January 7, 2000

Ms. Aimee Mick
Staff Services Director
Texas Department on Aging
P.O. Box 12786
Austin, Texas 78711

OR2000-0079

Dear Ms. Mick:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131051.

The Texas Department on Aging received a request for information concerning information relating to Governor George W. Bush. You seek to withhold portions of the information responsive to the request under sections 552.101, 552.107, 552.111, and 552.117 of the Government Code. You have submitted representative samples of the information at issue.¹

Section 552.301(e)(1)(B) of the Government Code require that a governmental body seeking an attorney general decision as to whether it may withhold information submit to this office a copy of the written request for information no later than the 15th business day after it received the request. Section 552.302 provides that if a governmental body fails to timely submit the materials required by section 552.301, the requested information must be released unless there is a compelling reason to withhold the information.

You advise that the request was received by the department on October 28, 1999. To date, this office has not received from you a copy of the written request. Accordingly, the information responsive to the request must be released unless there is a "compelling reason" to withhold it.

¹In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The exceptions to disclosure you claim under sections 552.101, 552.107 and 552.111 do not provide a compelling reason for withholding the information. *See, e.g.*, Open Records Decision Nos. 150 (1977) (“compelling reason” for withholding information is that information is made confidential by another source of law or affects third party interests), 630 (1994) (protection of attorney-client privilege may be waived by governmental body)², 470 (1987) (protection of predecessor statute to section 552.111 may be waived by governmental body).

Section 552.117, on the other hand, provides a basis for a compelling reason to withhold information where, as here, the governmental body has failed to timely submit the materials required by section 552.301. Section 552.117, in conjunction with section 552.024, provides that a public employee or official can opt to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. You must withhold this information if, as of the time of the request for the information, the employee had elected to keep the information private. Open Records Decision Nos. 530 (1989), 482 (1987), 455 (1987).

Finally, we note that the submitted information contains a driver’s license number which is subject to section 552.130. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold the driver’s license number under section 552.130. Except for information protected by sections 552.117 and 552.130, you must release the requested information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the

²We note that you claim the protection of the attorney client privilege under both sections 552.101 and 552.107. This office considers the attorney-client privilege to be an aspect of section 552.107. *See* Open Records Decision No. 574 (1990).

governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 131051

Encl. Submitted documents

cc: Mr. Mike Lavigne
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(w/o enclosures)